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PATENT, TRADEMARK AND COPYRIGHT LAW,
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TO: Examiner Paul D. Marcantoni
U.S. Patent and Trademark Office
Group 1755

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FROM: James G. Stewart
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Date: March 6, 2003

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March 6, 2003

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Examiner Paul D. Marcantoni
Group 1755
 United States Patent and Trademark Office
 Assistant Commissioner for Patents and Trademarks
 Washington, D.C. 20231-9999

Re: Application Serial No. 09/481,988
 Filed: January 11, 2000
 For: MESOPOROUS-SILICA FILMS, FIBERS, AND POWDERS
 BY EVAPORATION
 Our Docket No. 1941-70

or to make like Brinker
 add water
 alcohol solvent

Dear Examiner Marcantoni:

The above-referenced reissue application has been arduously examined in the patent office for over three years. Applicant is eager to have the patent reissued, with the already allowed broadened claims as well as with additional claims to which it believes it is entitled. However, we seem to have reached an impasse with your view of certain new matter and enablement issues. After applicant filed his appeal brief, you changed the basis for the rejections, and issued a further, non-final Office action.

We believe that now is the time to reach much-needed agreement on patentability, thus to avoid the time and expense of an appeal.

Accordingly, we propose to amend claim 128 as follows, much in keeping with your earlier suggestions regarding breaking the heating step into a heating step and a calcining step.

128. (Proposed) A calcined mesoporous silica film on a substrate formed by a process comprising:
 dispensing a catalyst- and silica precursor- and solvent- and surfactant-containing solution on the substrate;
 forming a film on the substrate by rapid evaporation of the solution on the substrate;
 heating the film on the substrate for a time and to a temperature sufficient substantially to remove any residual solvent; and

* must be an aqueous solvent *

for original claim
 further containing
 or alcohol containing
 solvent

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COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

do not
 bring self
 for any solvents!